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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,243	09/08/2000	Lester D. Nelson	EXPL-01025US0 MCF/KJD	3028
23910	7590	03/07/2005	EXAMINER	
FLIESLER MEYER, LLP FOUR EMBARCADERO CENTER SUITE 400 SAN FRANCISCO, CA 94111			MCFADDEN, SUSAN IRIS	
			ART UNIT	PAPER NUMBER
			2655	

DATE MAILED: 03/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/658,243

Applicant(s)

NELSON, LESTER D.

Examiner

Susan McFadden

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-30 and 50-55 is/are pending in the application.
- 4a) Of the above claim(s) 31-54 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-30 and 50-55 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 September 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4,20-24,27, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Tompkins et al (4,710,917).

In regard to claims 1-3,20-23, and 27, Tompkins et al. show in Figure 1, a personal computer (item 10) system comprising: a) an input for receiving audio (computers usually have microphones); b) a display or device (item 12) for providing a conversation representation; c) a memory for inherently storing data (which can be the conversation representation and an associated conversation element, wherein the conversation element has an internal representation of an audible utterance, Fig. 2, item 50); d) a processor (Fig 2), coupled to the audio input, display and memory, for providing a control signal; and, e) an audio output (which inherently can be an earpiece), coupled to the processor and memory, for providing the audible utterance responsive to the control signal and the conversation element; f) an interface box (item 24) inherently containing an impedance matching circuit coupled to the audio output which is a g) telephone (item 22).

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In regard to claims 4,24, and 30, Tompkins et al. show the system further comprises: an audio generator, coupled to the processor and audio output, for generating the audible utterance (Fig. 2, item 48, col. 6-7).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5-8,25,28, and 51-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tompkins et al. in view of "Minspeak", Baker, cited by Applicant (Minspeak).

In regard to claims 5-8,25, and 28, Tompkins et al. show the system above. They do not specifically show that the conversation representation is selected from the group consisting of an icon, a symbol, a figure, a graph, a checkbox, a GUI widget, a graphic button, text, labels, numbers, sound effects is in a graphic user interface (GUI). Minspeak shows it is well known to use conversation representations that can be icons, figures, symbols, text, words, or other buttons in a graphic user interface (pgs. 1-9). Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add this feature because it provides the system with more flexibility.

In regard to claims 51-55, Tompkins et al. show the system above. They do not specifically show that the conversation representation comprises: an item

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comprising a code associated with the conversation element, and a scanning device (which can be a barcode scanner or a digital camera), coupled to the processor for reading the barcode from a printed card and transmitting the device signal to the processor in response to reading the code. Minspeak shows a system that uses codes and graphics to help a user communicate. The Examiner takes Official Notice that a scanning system and bar code on a printed card can be added to the system instead of a keyboard if a person needed it. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add this feature because it provides the system with more flexibility.

5. Claims 9-19,26,29, and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tompkins et al.

In regard to claims 9 and 29, Tompkins et al. show the system above. They do not specifically show that the internal representation is in a format selected from the group consisting of a sound file, a record or playback, a text and a Musical Instrument Digital Interface and is loaded from a host computer. The Examiner takes Official Notice that one of ordinary skill in the art at the time of the invention would know that internal representations can be stored in sound files or text, depending on the users preferences. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add this feature because it provides the system with more flexibility.

In regard to claims 10-19 and 26, Tompkins et al. show the system above. They do not specifically show that the wherein a user can alter the conversation

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representation or conversation element by deleting, adding, recording, or altering the association between the conversation representation and the conversation element. The Examiner takes Official Notice that one of ordinary skill in the art at the time of the invention would know that conversation representations or elements can be changed depending on the users preferences. Therefore, it would be obvious to one of ordinary skill in the art at the time of the invention to add this feature because it provides the system with more flexibility.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan McFadden whose telephone number is 571-272-7621. The examiner can normally be reached on Monday-Friday, 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Doris To can be reached on 703-305-4827. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Susan McFadden
Primary Examiner
Art Unit 2655

March 3, 2005